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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,411	06/23/2003	Robert H. Blackwell	6393	1662

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Honeywell International Inc.
15801 Woods Edge Road
Colonial Heights, VA 23834

EXAMINER

EDWARDS, NEWTON O

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,411

Applicant(s)

BLACKWELL ET AL.

Examiner

N Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 2-22 and 26-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 23-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, 3, 4, 5, 6, 23, 24 and 25, drawn to a fiber of Figure 1, classified in class 428, subclass 376+.
- II. Claims 2, 8, 9, 10, 11, 12, 13, 14 and 26, drawn to a fiber of Figure 3A, classified in class 428, subclass 397.
- III. Claims 15, 16-22 and 27, drawn to a fiber of Figure 3b, classified in class 428, subclass 400.
- IV. Claim 28, drawn to a method of making a fiber, classified in class 264, subclass 172.1+.
- V. Claims 29, 30 and 31, drawn to a spinneret capillary profile, classified in class 425, subclass various.

The inventions are distinct, each from the other because:

Inventions Group I and Group IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different method such as extruding through a die with a hand press, drawing, quenching, and winding.

Inventions Group IV and Group V are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as

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claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by hand.

Inventions Groups I, II and Group V are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the produce can be made by a materially different apparatus such as a hand press.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group III, restriction for examination purposes as indicated is proper.

During a telephone conversation with Marget Miliken on April 5, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1, 3-7, 23, 24 and 29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 2, 8, 110-22 and 26-31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the forked trilobal fiber must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 5, 6, 7, 23, 24 and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dugan (US 6,093,491) alone or optional taken with applicant's admission.

On one hand, reading claim 1 in light of the spec at page 2 reveals Fig. 1 depicts the fiber of the claimed invention. On the other hand, applicant admits in claim 7 that Fig. 1 shows the fiber cross-sectional area of claim 1.

Dugan teach a fiber having the same cross-sectional shape as Fig. 1 supra. Dugan also teaches the fiber has two or more lobes extending from a central core, wherein each lobe is equally spaced and comprising at least three concave portions, at least two concave portions and at least four in reflection points. See Fig. 1 of Dugan for example. Dugan also teach the fiber an be made from polyester or polyamide such as nylon 6, for example in column 2.

Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Any inquiry concerning this communication from the examiner should be directed to Examiner Edwards whose telephone number is (571) 272-1521. The examiner can generally be reached on Monday-Friday from 6:00 am to 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (571) 272-1526. The fax phone number for the organization where this application is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

N. Edwards/dh
April 27, 2004



N. EDWARDS
PRIMARY EXAMINER